THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2873 of 2007

Dated: 23.02.2007

Between:

Kolaati Panthulu and another.

.....

PETITIONERS

AND

The Executive Officer/Special Deputy Collector, Land Regularisation, Simhachalam.

.....RESPONDENT

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.2873 of 2007

ORDER:

Second petitioner is the wife of first petitioner. They filed instant writ petition seeking a writ of Mandamus declaring the action of the respondent-temple in interfering with the construction taken up by them on plot No.8B in survey No.195/6 situated at Sainagar, Adivivaram Village, Pendurthi Mandal, Visakhapatnam, as illegal and arbitrary.

In brief, it is the case of the petitioners that they purchased the subject land in approved lay out from one Ganto Suresh under a registered sale deed dated 31.03.2006 and approached the Visakhapatnam Municipal Corporation, who granted building permission on 09.01.2007. They allege that when they were constructing the house, first respondent interfered with the same alleging that the land belongs to respondent-temple, namely, Sri Varaha Lakshmi Narasimha Swamyvari Devasthanam, Simhachalam. Therefore, instant writ petition is filed.

At the stage of admission itself, the learned standing counsel for respondent-temple opposed the writ petition. He relied on an unreported judgment of a learned single Judge of this Court in **K. Appa Rao v. The Govt. of A.P.**[1], wherein a similar matter was dismissed by this Court. He also relied on G.O.Ms.No.253 dated 03.03.2005, under which the Government superseded the orders in G.O.Ms.No.578 dated 19.08.2000 whereunder a scheme for regularization of encroachment was ordered.

The learned counsel for the petitioners placed strong reliance on a communication dated 10.06.2004 from the Executive Officer of the respondent-temple advising the petitioners' vendor to pay a sum of Rs.1,58,540/- for considering the request for regularization. She submits that when the respondent-temple decided to regularize the encroachment made by the vendor of the petitioners, there cannot be any objection now for not considering the regularization and preventing the construction activity taken up by the petitioners.

A perusal of the communication dated 10.06.2004 issued by the respondent-temple would show that the same was issued on 10.06.2004 when by reason of G.O.Ms.No.128 dated 25.01.2005 time granted for payment of the amount by encroachers seeking regularization was extended only up to 30.04.2004. Secondly in the reference entry of said communication, the application made by Ganto

Suresh, vendor of the petitioners, is also referred to but the date on which said representation was made was not specifically mentioned. Therefore, the petitioners cannot claim any right to seek regularization. Thirdly a copy of G.O.Ms.No.253 dated 03.03.2005 is placed before this Court and as noticed earlier, G.O.Ms.No.578 dated 19.08.2000 stands superseded now. The petitioners, therefore, have no right that can be enforced in a writ petition. In **K. Appa Rao** (supra), this Court considered a similar question and having regard to Section 80 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987, and also noticing the fact that G.O.Ms.No.578 dated 19.08.2000 is no longer operational by reason of G.O.Ms.No.253 dated 03.03.2005, dismissed the writ petition, wherein a direction was sought to the Executive Officer of the
respondent-temple to receive the amount and issue appropriate proceedings. The observations made in the said judgment squarely apply to the facts of this case also.

The writ petition is, therefore, dismissed. No costs.

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(**V.V.S.RAO, J**)

23th February, 2007
ghn

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[1] W.P.No.25827 of 2006 dated 13.12.2006